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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,225

09/10/2003

Jason Clay Pearson

71593

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7590

05/24/2006

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EXAMINER

SANDERS, KRIELLION ANTIONETTE

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,225

Applicant(s)

PEARSON ET AL.

Examiner

Kriellion A. Sanders

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-77 is/are pending in the application.
- 4a) Of the above claim(s) 44-52, 54-58, 60-64, 70 and 72-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53, 59, 65-69 and 71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 53, 59, 65-69 and 71 are said to read upon the elected invention. Claims 44-52, 54-58, 60-64, 70 and 72-77 are withdrawn from further consideration.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 53, 59, 66 and 71 are rejected under 35 USC 102(b) as being clearly anticipated over Mogami et al, US Patent No. 5,684,071.

Mogami et al discloses polyester compositions including barbituric acid and derivatives. See col. 3, line 50 through col. 4, line 35. Colorants and UV absorbers may also be included. See col. 12, line 61 through col. 13, line 3.

Response to Arguments

1. Applicant's arguments filed 3/14/2006 have been fully considered but they are not persuasive. Applicant argues that Mogami et al does not disclose barbituric acid. This argument

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is not persuasive because Mogami et al discloses that pyrimidine derivatives may be used.

Barbituric acid is also known as 2, 4, 6, trioxypyrimidine and 2, 4, 6, (1H,3H,5H,-pyrimidinetrione. Clearly barbituric acid is a derivative of pyrimidine. Applicant's argument that the formula II at col. 4 of the patent should possess N-R₅ instead of C-R₅ bonds is unsubstantiated. Applicant has no basis to allege that patentee intended the carbon ring atoms to be nitrogen.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 65-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogami et al. as applied to claims 53, 59 and 66 above and further in view of Sargeant et al, US Patent No. 6,5934,06 and Igrashi et al, US Patent No. 4,837,115.

Antimony compounds are included at col. 7, line 65 through col. 8, line 9 and at col. 12, lines 61-67 of Mogami et al. Conventional U.V. absorbers are employed in combination with HALS as is documented by Sargeant et al. Sargeant discloses that radical scavenging Hindered Amine Light Stabilizer (HALS) are used together with UV absorbers to protect plastic materials. HALS works in a different way than UVA. When some UV light is not absorbed, free radicals that cause polymer degradation will be produced. HALS will react with these free radicals and

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prevent further degradation by these radicals. The HALS used should meet all the above requirements for UVA (high thermal stability, low volatility, low or no color and compatibility with the polymer). See col. 8, lines 9-32.

Igrashi et al. documents that amino- group-containing compounds may be used to scavenge acetaldehyde in polyester compositions. The barbituric acids and the derivatives thereof of Mogami et al are considered to have inherent acetaldehyde reducing properties by virtue of the amine groups present on the compounds.

Colorants and UV absorbers may be included in these compositions. See col. 6, line 56 through col. 8, line 45. Incorporation of a conventional "post consumer recycled material" as opposed to a virgin material to reduce production costs would have been an obvious variation to the art-skilled at the time of this invention. Likewise, the addition of HALS to provide additional light stability to the Mogami et al compositions in a capacity that is synergistic or additive to the UVAs used there in, would have also been obvious to the art-skilled.

Response to Arguments

Applicant's arguments filed 3/14/06 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the incorporation of a conventional "post consumer recycled material" to

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reduce production costs or the addition of a HALS to provide additional light stability to the Mogami et al compositions, in a capacity that is synergistic or additive to the UVAs used there in, would have also been obvious to the art-skilled.

Information Disclosure Statement

Prior art cited on form 1449 must include a month and year of publication to be fully considered.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122.

The examiner can normally be reached on Monday through Thursday 6:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kriellion A. Sanders
Primary Examiner
Art Unit 1714

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